IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr.Misc. No.37309 of 2008

RAJ KUMAR SINGH

Versus

STATE OF BIHAR

- - - -

2. 2.9.2008 Heard.

15 grams of heroin is alleged to have been recovered from the possession of the petitioner on 11.11.2006 and the petitioner is in custody since thereafter.

The contention is many fold, that the substance which is said to be heroin is not confirmed as such in absence of any report of the Forensic Science Laboratory, that in spite of the charge being framed the court has not been able to examine the witnesses in a period of about four months and that the petitioner is in custody since about 22 months. The contention further is that 15 grams of heroin may not be a quantity commercial in nature.

A circumstance pointed out by the learned Judge is definitely existing on the record of the case and the learned Judge who dismissed the prayer for bail on 22.4.2008,

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who also appears trying the case, also does not appearing taking into account the contention especially that the petitioner is in custody since 22 months. The learned Judge appears merely influenced by the fact that the prayer for bail has been dismissed twice by this Court. It is inconsequential, it could not be a hurdle in the jurisdiction of any Judge subordinate to this Court to exercise his discretionary powers of granting bail even if the prayer has been refused but the circumstances must be appearing requiring the order to be passed.

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As things stand, there may not be a report of the Forensic Science Laboratory, but one grave circumstance against the petitioner is that he being a young man of 25 years appears indulging in the most heinous offence of trading in smacks which is likely to affect the health and finance of the nation and considering that I am not inclined to direct the release of the petitioner.

The petition is dismissed.

The court below is directed to take up the trial expeditiously and deliver the

judgment in a period of one year from the date of receipt/production of a copy of the present order.

Kanth

(Dharnidhar Jha, J.)

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